

DECLARATION AND POWER OF ATTORNEY- USA PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled IDENTIFICATION OF ESSENTIAL GENES IN PROKARYOTES; the specification of which was filed on **March 21, 2001** as Application Serial No. **09/815,242**.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

I hereby claim the benefit under Title 35, United States Codes § 119(e) of any United States provisional application(s) listed below.


Application No.: 60/191,078
Application No.: 60/206,848
Application No.: 60/207,727
Application No.: 60/242,578
Application No.: 60/253,625
Application No.: 60/257,931
Application No.: 60/269,308

Filing Date: March 21, 2000
Filing Date: May 23, 2000
Filing Date: May 26, 2000
Filing Date: October 23, 2000
Filing Date: November 27, 2000
Filing Date: December 22, 2000
Filing Date: February 16, 2001

POWER OF ATTORNEY: I hereby appoint the registrants of Knobbe, Martens, Olson & Bear, LLP, 2040 Main Street, 14th Floor, Irvine, California 92614, Telephone (949) 760-0404, **Customer No. 20,995**.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: **Robert Haselbeck**

Inventor's signature 

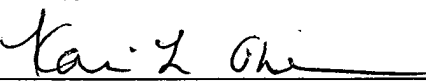
Date September 3, 2002

Residence: **4672 El Cerrito Drive, San Diego, CA 92115**

Citizenship: **United States**

Post Office Address: **4672 El Cerrito Drive, San Diego, CA 92115**

Full name of second inventor: **Kari L. Ohlsen**

Inventor's signature 

Date September 3, 2002

Residence: **3560 Vista de la Orilla, San Diego, CA 92117**

Citizenship: **United States**

Post Office Address: **3560 Vista de la Orilla, San Diego, CA 92117**

Full name of third inventor: **Judith W. Zyskind**

Inventor's signature 

Date 9/5/2002

Residence: **8415 La Jolla Scenic Drive, La Jolla, CA 92037**

Citizenship: **United States**

Post Office Address: **8415 La Jolla Scenic Drive, La Jolla, CA 92037**

Full name of fourth inventor: **Daniel Wall**

Inventor's signature Daniel Wall

Date 9/13/02

Residence: **3734 Brookshire Street, San Diego, CA 92111**

Citizenship: **United States**

Post Office Address: **3734 Brookshire Street, San Diego, CA 92111**

Full name of fifth inventor: **John D. Trawick**

Inventor's signature John D. Trawick

Date 3 September 2002

Residence: **7975 Michelle Drive, La Mesa, CA 91942**

Citizenship: **United States**

Post Office Address: **7975 Michelle Drive, La Mesa, CA 91942**

Full name of sixth inventor: **Grant J. Carr**

Inventor's signature Grant J. Carr

Date 09-03-2002

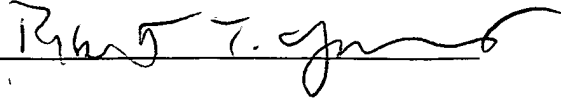
Residence: **2210 Sonrisa Glen, Escondido, CA 92029**

Citizenship: **United States**

Post Office Address: **2210 Sonrisa Glen, Escondido, CA 92029**

Full name of seventh inventor: **Robert T. Yamamoto**

Inventor's signature



Date

9/3/02

Residence: **3725 Notre Dame Avenue, San Diego, CA 92122**

Citizenship: **United States**

Post Office Address: **3725 Notre Dame Avenue, San Diego, CA 92122**

Full name of eighth inventor: **H. Howard Xu**

Inventor's signature



Date

9/3/02

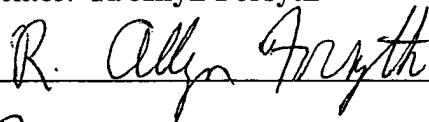
Residence: **14695 Penasquitos Drive, San Diego, CA 92129**

Citizenship: **United States**

Post Office Address: **14695 Penasquitos Drive, San Diego, CA 92129**

Full name of ninth inventor: **R. Allyn Forsyth**

Inventor's signature



Date

9/9/02

Residence: **1135 Beryl Street, San Diego, CA 92109**

Citizenship: **United States**

Post Office Address: **1135 Beryl Street, San Diego, CA 92109**

Send Correspondence To:

KNOBBE, MARTENS, OLSON & BEAR, LLP

Customer No. 20,995



ELITRA.011A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Haselbeck, et al.) Group Art Unit 1631
Appl. No. : 09/815,242)
Filed : March 21, 2001)
For : IDENTIFICATION OF ESSENTIAL)
GENES IN PROKARYOTES)
Examiner : Marjorie A. Moran)

STATEMENT UNDER 37 CFR 3.73(b)

The undersigned states that it is:


1. X the assignee of the entire right, title and interest; or
2. _____ an assignee of an undivided part interest

in the patent application identified above by virtue of an assignment from the inventors of the patent application identified above. The original assignment is recorded at Reel 012290, Frame 0635. A copy of the assignment executed by R. Allyn Forsyth is enclosed herewith. These assignments represents the entire chain of title of this invention from the Inventor(s) to the Assignee.

The undersigned is empowered to sign this statement on behalf of the assignee.

ELITRA PHARMACEUTICALS, INC.

Dated: Sept 16th 2002

By: 

J. Gordon Foulkes
Executive Vice President
Research and Development
3510 Dunhill Street
Suite A
San Diego, CA 92121



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Haselbeck, et al.)	Group Art Unit 1631
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Appl. No.	:	09/815,242)	
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Filed	:	March 21, 2001)	
)	
For	:	IDENTIFICATION OF)	
		ESSENTIAL GENES IN)	
		PROKARYOTES)	
)	
Examiner	:	Marjorie A. Moran)	

ASSENT OF ASSIGNEE TO ADDITION OF INVENTORS

United States Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202

Dear Sir:

ELITRA PHARMACEUTICALS, INC. is the assignee of the right, title and interest in and to the above-identified application, as shown by the assignment recorded at Reel 012290, Frame 0635. This Assignment has been reviewed by the undersigned, who certifies that, to the best of his or her knowledge and belief, title is in the assignee.

The above-named assignee hereby assents to the change of inventorship adding the previously unnamed person:

R. ALLYN FORSYTH

As an inventor of the invention disclosed in the above-referenced application, so that the inventors of the application will be:

Appl. No. : 09/815,242
Filed : March 21, 2001

ROBERT HASELBECK

KARI L. OHLSEN

JUDITH W. ZYSKIND

DANIEL WALL

JOHN D. TRAWICK

GRANT J. CARR

ROBERT T. YAMAMOTO

H. HOWARD XU

R. ALLYN FORSYTH

ELITRA PHARMACEUTICALS, INC.

Dated: Sept 16 2002

By: 

J. Gordon Foulkes
Executive Vice President
Research and Development
3510 Dunhill Street
Suite A
San Diego, CA 92121

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081202

Application No.: 09/815,242
Filing Date: March 21, 2001

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ASSIGNMENT

PATENT
Client Code: ELITRA.011A
Page 1

WHEREAS, I, R. Allyn Forsyth, a United States citizen, residing at 1135 Beryl Street, San Diego, California 92109, have jointly invented certain new and useful improvements in an IDENTIFICATION OF ESSENTIAL GENES IN PROKARYOTES for which an application for Letters Patent has been filed in the United States, Application No. 09/815,242, filed March 21, 2001;

AND WHEREAS, Elitra Pharmaceuticals, Inc. (hereinafter "ASSIGNEE"), a Delaware Corporation, with its principal place of business at 3510 Dunhill Street, Suite A, San Diego, California 92121, desires to acquire the entire right, title, and interest in and to the said improvements and the said Application:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) to me in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, I, one of the said inventors, do hereby acknowledge that I have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said ASSIGNEE, its successors, legal representatives and assigns, my entire right, title, and interest throughout the world in, to and under the said improvements, and the said application and all provisional applications relating thereto, and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, renewals and reissues thereof; and I hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND I HEREBY covenant and agree that I will communicate to the said ASSIGNEE, its successors, legal representatives and assigns, any facts known to me respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

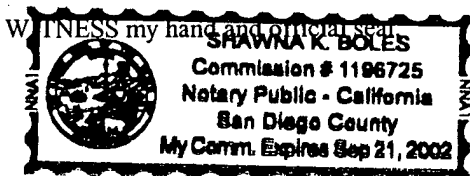
IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 9 day of August, 2002.

R. Allyn Forsyth
R. Allyn Forsyth

STATE OF California }
COUNTY OF San Diego } ss.

On Sept 9, 2002, before me, Shawna K. Bales, personally appeared R. Allyn Forsyth, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

[SEAL]



Shawna K. Bales
Notary Signature

Amended Compact Discs

EXAMINER NOTE: THIS PAPER IS AN INTERNAL WORKSHEET ONLY. DO NOT ENCLOSE WITH ANY COMMUNICATION TO THE APPLICANT. ITS PURPOSE IS ONLY THAT OF AN AID IN HIGHLIGHTING A PARTICULAR PROBLEM IN A COMPACT DISC.

THE ATTACHED CD (COPY 1) HAS BEEN REVIEWED BY OIPE FOR COMPLIANCE WITH 37 CFR 1.52(E).

Date:

11/19/02

Serial No./Control No.

09 815242

Reviewed By:

Williams

Phone:

305 3027



The compact discs are readable and acceptable.



Copy 1 and Copy 2 of the compact discs are not the same.



The compact discs are unreadable.



The files on the compact discs are not in ASCII.



The compact discs contain at least one virus.



Other
